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SENATE

REPORT
No. 1182

AMENDING SECTION 602 OF THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949 WITH RESPECT TO THE UTILIZATION AND DISPOSAL OF EXCESS AND SURPLUS PROPERTY UNDER THE CONTROL OF EXECUTIVE AGENCIES

JULY 28, 1955.—Ordered to be printed

Mr. KENNEDY, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 2591]

The Committee on Government Operations, to whom was referred the bill (S. 2591) to amend section 602 of the Federal Property and Administrative Services Act of 1949 with respect to the utilization and disposal of excess and surplus property under the control of executive agencies, having considered the same, report favorably thereon, with amendments, and recommend that the bill, as amended, do pass.

COMMITTEE AMENDMENTS

The amendments approved by the committee are as follows:

(1) Page 2, line 14, strike the word "inplace." S. 2591, as originally drafted may have been construed to restrict TVA's disposal of power facilities to inplace or stationary facilities. It is the committee's conclusion that TVA should retain disposal authority over movable power equipment facilities, such as small generators, etc., where disposal is in connection with a specific statutory disposal program.

(2) Page 2, line 16, strike the words "to power distributors." It is the judgment of the committee that the restriction "to power distributors" would too severely limit TVA's disposal authority, since the Authority may have occasion to transfer equipment, facilities, or interests in realty to other than "power distributors" in accordance with statutory programs undertaken by it, for example, services to industrial firms, etc.

(3) Page 3, line 11, delete the following language, beginning with the word "Each" through line 16, ending with the word "therefor."

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The two provisions eliminated by the amendment are not necessary to the fulfillment of the objectives of S. 2591. It is not necessary to require publication of an Executive order in the Federal Register 30 days prior to the issuance thereof because before an Executive order is issued, the viewpoint and suggestions of all affected executive agencies concerned are obtained. Except in emergencies, agencies affected are made fully aware of a forthcoming Executive order on the average of 2 to 4 weeks before issuance of the order, the staff of the Bureau of the Budget advises.

Annual reports to the Congress upon Executive orders issued under the authority granted the President by S. 2591 are not considered essential to the objectives of the bill since all Executive orders are published in the Federal Register and are available to the Congress, committees of the Congress, or Members of the Congress at any time.

GENERAL PURPOSE

The primary purpose of S. 2591 is to amend the Federal Property and Administrative Services Act of 1949, as amended (Public Law 152, 81st Cong., 63 Stat. 377) so as to vest in the Administrator of the General Services Administration exclusive authority with respect to the utilization and disposal of excess and surplus property, real and personal, which is under the control of any executive agency, except as hereafter noted.

The bill would do this by removing present statutory exemptions of certain executive departments and agencies from the General Services Administration's authority as set forth in subsection 602 (d), paragraphs (1) through (13) of the Federal Property and Administrative Services Act of 1949, as amended. Specifically, the bill would make certain exemptions in subsection 602 (d) of Public Law 152, the Federal Property and Administrative Services Act of 1949 as amended, inapplicable to section 202 (property utilization); section 203 (disposal of surplus property); and section 204 (procedures for transfer or disposition of property) of the act.

Although eliminating statutory exemptions (with the exceptions hereafter noted) the bill would give the President the power to make such specific exemptions from the exercise by the Administrator of General Services of the authority vested in him, as the President deems necessary in the public interest.

In summary, the bill eliminates statutory exemptions, with the exceptions hereafter noted, but empowers the President to continue existing exemptions, modify those now in existence, or impose new ones by Executive order.

JUSTIFICATION FOR VESTING AUTHORITY IN THE GENERAL SERVICES ADMINISTRATION

The Federal Property and Administrative Services Act of 1949 was enacted and the General Services Administration was created, among other reasons, to center, as far as feasible, in one administration, authority governing the utilization of property, the disposal of surplus property, and the transfer or disposition of property between Government agencies.

However, certain executive departments and agencies, and officers and functions thereof, such as the Atomic Energy Commission, the Tennessee Valley Authority, the Department of Agriculture, the Central Intelligence Agency, and others, were exempted completely or partially from sections 202, 203, and 204 of the act which pertain to General Services Administration's authority governing utilization and disposal of property.

Agencies were granted exemptions by the Congress from these provisions of Public Law 152 for several reasons, among them: (A) The agencies convinced Congress they could better dispose of their own surplus property. (B) The Congress believed that the national security would be better served if certain agencies retained authority to dispose of certain types of property. (C) Certain types of property (for example, contaminated materials) could best be disposed of by the owning agencies.

After 5 years of experience under the provisions of subsection 602 (d) authorities upon disposal of surplus Government property, such as the General Services Administration, the Commission on Organization of the Executive Branch of the Government (the Hoover Commission, whose recommendations appear elsewhere in this report) and other organizations which have studied the matter, have come to the conclusion that the best interests of the Government would be served if the majority of the statutory exemptions were removed, and the General Services Administrator given enlarged authority governing utilization and disposal programs.

The Hoover Commission based its recommendations on the finding that the opportunity for substantial dollar savings is not presently being met by reason of the present exemptions. Should the exemptions be removed, the Commission believes that more excess property would be reported to General Services Administration for screening within the Federal Government, resulting in increased utilization. Further, the Commission declared General Services Administration control and supervision would make for more uniform, efficient, and economical surplus disposals. The testimony offered the committee fully supports the Hoover Commission position in this important area.

STATUTORY EXEMPTIONS CONTINUED

The Committee on Government Operations, in recommending approval of S. 2591, is fully aware that the statutory exemptions of certain departments and agencies, or upon specific functional disposal programs, from overall authority of the General Services Administrator should be continued, and that the authority to utilize and dispose of certain types of Government property should remain unmolested in those respective departments, agencies, or officers.

In examining the problems of utilizing and disposing of excess and surplus property, the committee considered carefully the existing statutory exemptions and concluded that a fundamental difference existed between (1) disposing of surplus property simply for the purpose of, in effect, getting rid of it and realizing the greatest possible return of the Government's investment; and (2) disposing of property where the disposal itself constitutes an integral part of a proper governmental program established by law. Examples of the latter group are the disposal of agricultural surplus products in the price

support, school lunch, and other programs, and the disposal by the Tennessee Valley Authority of lands surrounding its reservoirs, in accordance with the Authority's recreational, agricultural, flood control, and navigation programs.

The committee concluded, therefore, that where disposal constitutes a program operation, control of the disposal should be vested in the department or agency bearing the responsibility for the ultimate success of the total program. Thus, the committee recommends a general exemption from the control of the General Services Administration in the field where disposal is a part of or in furtherance of agency program activities, providing in subparagraph (A) that nothing in S. 2591 shall impair or affect any authority of—

(A) any executive agency to dispose of property under its control when such disposal is made as specifically authorized by law in a particular manner, to a particular class or classes of persons, or for particular purposes, as part of or in furtherance of program activities of such agency, including, but not limited to, disposal by the Department of Agriculture of agricultural commodities acquired under price support or other agricultural assistance programs, and disposal by the Tennessee Valley Authority of reservoir lands, or power equipment facilities with appurtenant rights-of-way, and of other property similarly disposed of by such Authority in connection with its program activities, but the agency carrying out such program shall, to the maximum extent practicable consistent with the fulfillment of the purposes of the program and the effective and efficient conduct of its business, coordinate its operations with the requirements of this Act and the policies and regulations prescribed pursuant thereto;

The continued exemption of the Joint Committee on Printing was also specifically provided for in subparagraph (B) in the following language:

(B) the Joint Committee on Printing under the Act entitled, "An Act providing for the public printing and binding and distribution of public documents", approved January 12, 1895 (58 Stat. 601), as amended, or any other Act.

In addition, it is not the intention of the committee that S. 2591 shall affect the authority granted the Administrator of the Veterans' Affairs by the Servicemen's Readjustment Act, as amended by the act of December 28, 1945 (38 U. S. C. 694j), which specifically authorizes the Administrator of Veterans' Affairs to sell, operate, maintain, lease, or otherwise use property acquired or held pursuant to the Veterans' Administration loan assistance program under title III of the above act.

It is the judgment of the committee that disposal of property described by the above sections can best be accomplished with the greatest efficiency and the greatest economy by the respective agencies, particularly as respects disposal programs which perform functions authorized by law.

HOOVER COMMISSION RECOMMENDATIONS

Both the Commission on Organization of the Executive Branch of the Government (in its report on use and disposal of surplus property, filed with the Congress on April 18, 1955), and the Commission's task force on the use and disposal of Federal surplus property (in its report filed with the Congress on June 22, 1955), made recommendations to the Congress concerning the vesting of authority in the General Services Administrator and the elimination of statutory exemptions from that authority. It should be noted that both reports were in substantial agreement on the matter and both were unanimous reports.

As to disposal of personal property, the Hoover Commission, in its report on surplus property (recommendation No. 4, p. 21) stated:

The statutory basis for efficient utilization of excess property is the Federal Property and Administrative Services Act of 1949, as amended (Public Law 152, 81st Cong.). By this act the Administrator of General Services is responsible for prescribing policies and methods to promote maximum utilization of excess property by executive agencies.

Various civilian agencies are entirely or partially exempted by law from reporting their excess property for screening or from other phases of property management. These include the Department of Agriculture, the Housing and Home Finance Agency, the Tennessee Valley Authority, the Atomic Energy Commission, the Central Intelligence Agency, and the Federal Maritime Administration. Because of such exemptions, opportunities are lost for redistribution and utilization of excesses.

Public interest demands that with the exception of certain property classified for security reasons, and unless the economy of operations requires otherwise, exemptions from the responsibility to report excess property for screening by defense and civilian agencies should be held to a minimum. The exemptions now granted in the Federal Property and Administrative Services Act of 1949 should be individually reviewed with a view to requiring rejustification in each case.

Recommendation No. 4

That the Federal Property and Administrative Services Act of 1949, as amended, be revised:

"(a) to eliminate all statutory exemptions for the executive branch of the Government from General Services Administration authority for utilization and disposal of all excess and surplus personal property.

"(b) to authorize the President to prescribe by Executive order specific exemptions from General Services Administration authority where fully justified in the public interest."

As to the disposal of real property, the Hoover Commission (in its report on surplus property (recommendation No. 20, pp. 79-81)) stated:

Prior to enactment of the Federal Property and Administrative Services Act of 1949, real property management responsibilities were scattered among the heads of many agencies. The 1949 legislation provided a central vehicle to achieve more economical and efficient use and more orderly disposal of real property.

However, as noted in the discussion of excess and surplus personal property, a number of agencies still are exempt from General Services Administration jurisdiction with respect to certain disposal functions. The principal agencies exempt or partially exempt for the disposal of domestic real property are:

1. Atomic Energy Commission, completely exempt but voluntarily disposes of real property through General Services Administration in certain cases.
2. Central Intelligence Agency, completely exempt.
3. Tennessee Valley Authority, with respect to the disposal of land and buildings.
4. Maritime Administration, with respect to the disposal of shipyards, ship sites, terminals, piers, docks and warehouses.
5. Housing and Home Finance Agency, with respect to disposal of residential or other real property held or acquired in connection with housing insurance and loan activities.
6. Civil Aeronautics Administration, with respect to airport property and airway property for use as such property.

As in the case of recommendation No. 4 which dealt with excess and surplus personal property, we believe that the public interest also demands that, with the exception of certain real property classified for security reasons, and unless the economy of operations requires otherwise, exemptions from General Services Administration authority in connection with the reporting and screening of excess real property should be held to a minimum. The exemptions now granted by the Federal Property and Administrative Services Act of 1949, as amended, should be reviewed individually with a view to requiring rejustification in each case.

Recommendation No. 20

That the Federal Property and Administrative Services Act of 1949, as amended, be revised:

6 UTILIZATION AND DISPOSAL OF CERTAIN SURPLUS PROPERTY

(a) to eliminate all statutory exemptions for the executive branch of the Government from General Services Administration authority for utilization and disposal of all excess and surplus real property;

(b) to authorize the President to prescribe by Executive order specific exemptions from General Services Administration authority where fully justified in the public interest.

The Hoover Commission's task-force report, upon which the Commission's recommendations were based, made the following specific recommendations, supported by textual justification which was condensed by the Commission as set out above, relating to statutory exemptions of executive departments and agencies under Public Law 152:

Recommendation No. 3, task-force report, chapter 2, "Excess personal property" (p. 52)

3. That section 602 (d) of the Federal Property and Administrative Services Act of 1949, as amended, be revised to require those agencies therein exempted from the provisions of the act to report all excess personal property in their inventory to the Materiel Redistribution Division for screening, except for those categories of property which are classified for security reasons or which under present regulations are classified as nonreportable. * * *

It may be noted that this recommendation (repeated on p. 88 of the report) applies solely to the reporting of "excess personal property" to the Materiel Redistribution Division of the Department of Defense.¹ The following recommendations apply to disposal of surplus property, personal and real.

Recommendations Nos. 1, 2, and 3, task-force report, chapter 4, "Disposal of surplus property" (p. 164)

It is recommended:

1. That present delegations of authority for property disposal by the Administrator of General Services to Federal departments and agencies be continued. (See p. 119.)

2. That agencies now exempt under provisions of Public Law 152 be made subject to General Services Administration regulation over their disposal operations, except for properties which are classified for security reasons. (See p. 116.)

3. That the Administrator of General Services, under the authorities and responsibilities prescribed for him by Public Law 152, issue adequate regulations to govern disposal methods and establish uniform disposal procedures. (See p. 118.)

Recommendation No. 1, task-force report, chapter 5, "Real property" (p. 201)

It is recommended:

1. Exemption from the provisions of Public Law 152 should be rescinded as follows:

(a) Tennessee Valley Authority, Housing and Home Finance Agency, and the Government Printing Office, with respect to the disposal of real property; and

(b) Maritime Commission with respect to the disposal of shipyards, ship sites, terminals, piers, docks, and warehouses.²

HEARINGS

Hearings were held by the Subcommittee on Reorganization of the Committee on Government Operations on S. 2367, Mr. Smathers (for Mr. Kennedy), on July 13, 1955. S. 2367 has been superseded by S. 2591, which bill the committee herewith reports to the Senate.

¹ "Excess" property is property which is not needed by one agency, but may be utilized by another agency. "Surplus" property is property which has been declared excess by one agency, is not needed or cannot be utilized by another agency (i. e., the Government has no need for it) and, therefore, may be disposed of by donation (to States, etc.), by public sale, or scrapping.

² The textual justification for the above recommendations may be found in the Hoover Commission's Task Force Report on Use and Disposal of Federal Surplus Property filed with the Congress on June 22, 1955, as indicated by the page references following the above recommendations.

S. 2367, proposed by the Commission on Organization of the Executive Branch of the Government, which differs from S. 2591 in many respects, provided:

That authority over disposal of surplus Government property be vested in the General Services Administrator, irrespective of the provisions of the Federal Property and Administrative Services Act of 1949, as amended (Public Law 152), and irrespective of all other provisions of law, 60 days after enactment of the act, provided (a) the President would have authority to make such specific exemptions by Executive order from the authority of the Administrator of General Services as he deemed necessary in the public interest, and (b) provided that the act would not be applicable to property under the control of executive agencies outside the continental limits of the United States, Hawaii, Alaska, Puerto Rico, and the Virgin Islands.³

Witnesses heard included Gerald S. Wise, Executive Director, Hoover Commission Task Force on Surplus Property, Baltimore, Md.; Maxwell H. Elliott, General Counsel, General Services Administration, and Lewis C. Tuttle, Deputy Director, Personnel Property Utilization and Disposal Division, General Services Administration; and Percival F. Brundage, Deputy Director, Bureau of the Budget, accompanied by George Mullins, Bureau of the Budget; all of whom were in general agreement with the basic principles of S. 2367, now incorporated in S. 2591.

Subsequent to the hearings, agreement was reached by the Subcommittee on Reorganization with the Bureau of the Budget, the General Services Administration, and the Hoover Commission task force upon the objectives of S. 2591, as herewith amended.

RELATED PROPOSALS

The committee is aware that the Hoover Commission and the task forces submitted other recommendations to the Congress relative to exemptions from the General Services Administrator's authority over transportation, warehousing, and management of real property, and that various bills have been introduced to implement some of these proposals. However, it is the consensus of the committee that because of the urgent necessity for the Administrator of the General Services Administration to be given broader authority over disposal of ever-increasing Government surpluses (now accumulating at the rate of \$2 billion a year), it is more expedient for the Congress to take action at this time upon this phase of the overall problem rather than to risk delay by acting upon the other equally important but not as pressing matters. It is the committee's intention to give immediate attention to the related matters as quickly as is appropriate and feasible.

CONCLUSION

Based upon the facts presented herewith the committee can come to no conclusion other than that the enactment of S. 2591, as amended, is in the best interests of the Government, both from the viewpoint of efficiency and economy. Although it is extremely difficult to estimate

³ The provision pertaining to foreign property contained in S. 2367 is not necessary in the enactment of S. 2591 because under the definitions of the Federal Property and Administrative Procedures Act of 1949, as amended, S. 2591 is applicable only to excess and surplus property within the continental limits of the United States.

realistically the dollar savings that will result from the further centralization of administrative authority in the General Services Administration over utilization and disposal of Government property, undoubtedly they will be substantial. At the same time, as previously noted, the committee recognizes that certain types of disposal programs should be continued to be administered by specific owning agencies.

The committee, in summary, is convinced that S. 2591 is an important step in the better management, utilization, and disposal of Government property and a solution to some of the problems relating thereto. The committee, therefore, reports favorably thereon, and recommends that the bill do pass.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of the rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (matter omitted enclosed in brackets, new matter printed in italics, existing law in which no change is reported shown in roman):

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949 REPEAL AND SAVING PROVISIONS

SEC. 602. (a) * * *

* * * * *

"(g) (1) Notwithstanding the provisions of subsection (d) of this section or of any law other than this Act, the Administrator shall exercise the authority vested in him by this Act with respect to the utilization and disposal of all excess and surplus property, real and personal, which is under the control of any executive agency, except that nothing in this Act shall impair or affect any authority of—

"(A) any executive agency to dispose of property under its control when such disposal is made as specifically authorized by law in a particular manner, to a particular class or classes of persons, or for particular purposes, as part of or in furtherance of program activities of such agency, including, but not limited to, disposal by the Department of Agriculture of agricultural commodities acquired under price support or other agricultural assistance programs, and disposal by the Tennessee Valley Authority of reservoir lands, or power equipment facilities with appurtenant rights-of-way, and of other property similarly disposed of by such Authority in connection with its program activities, but the agency carrying out such program shall, to the maximum extent practicable consistent with the fulfillment of the purposes of the program and the effective and efficient conduct of its business, coordinate its operations with the requirements of this Act and the policies and regulations prescribed pursuant thereto; or

"(B) the Joint Committee on Printing under the Act entitled 'An Act providing for the public printing and binding and the distribution of public documents', approved January 12, 1895 (58 Stat. 601), as amended, or any other Act.

"(2) The President may by Executive order make such specific exemptions from the exercise by the Administrator of General Services of his authority under this subsection with respect to the utilization and disposal of excess and surplus property as the President deems to be necessary in the public interest."

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